

Exhibit D

Weber, Olivia

From: John L. Wood <JWood@emlaw.com>
Sent: Thursday, January 28, 2021 2:19 PM
To: Alison Plessman; jordan.feirman@skadden.com; john.neukom@skadden.com
Cc: Cheryl G. Rice; Werner, Tom; Ashley, Matt; Weber, Olivia
Subject: RE: Source Code [IWOV-ACTIVE.FID215893]

Alison,

We are still working through who the Party Representatives will be for SNMP Research. We can have a preliminary list by tomorrow. Are you willing to exchange a preliminary list of Party Representatives tomorrow at 5pm ET?

The methodology you proposed during the 26(f) conference was that the parties produce source code as opposed to having source code reviewed in a data room. Your expressed reasoning was that it would make it easier for the parties, particularly given the situation with Covid 19. We are trying to follow your request to make the source code exchange as easy as possible. If you think you need expert input to comment on the source code provisions of the protective order then you should do that now so we can have a complete protective order.

Please send us your comments on the protective order and we will turn it around quickly.

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From: Alison Plessman <aplessman@hueston.com>
Sent: Thursday, January 28, 2021 1:40 PM
To: John L. Wood <JWood@emlaw.com>; jordan.feirman@skadden.com; john.neukom@skadden.com
Cc: Cheryl G. Rice <CRice@emlaw.com>; twerner@irell.com; mashley@irell.com; oweber@irell.com
Subject: RE: Source Code [IWOV-ACTIVE.FID215893]

John,

I'm not sure what methodology you are referring to since we discussed the potential protective order only very briefly and at a high level at the Rule 26(f) conference. For many reasons, we will not be in a position to begin reviewing SNMP's source code next week, including but not limited to the fact that this would require expert analysis and input, it is premature to do so before we know what issues will remain after the motion to dismiss, it would require us to first serve discovery and evaluate your responses and you have indicated that we cannot do so without risking waiver, etc. But I think we can likely resolve many, if not all, of the other issues we have with respect to the protective order in the meantime. As I noted below, one issue concerns who the designated "Party Representatives" will be for Highly

Confidential materials. Can you please let us know if you are contemplating that Jeff Case will be the Party Representative on your side because that could be an issue?

Best,
Alison

Alison Plessman

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[Biography](#)

From: John L. Wood <jwood@emlaw.com>
Sent: Wednesday, January 27, 2021 11:47 AM
To: Alison Plessman <aplessman@hueston.com>; jordan.feirman@skadden.com; john.neukom@skadden.com
Cc: crice@emlaw.com; twerner@irell.com; mashley@irell.com; oweber@irell.com
Subject: RE: Source Code [IWOV-ACTIVE.FID215893]

Alison,

We sent Defendants a draft protective order ten days ago, and we drafted the source code provision based on the very methodology you proposed during the parties' rule 26(f) conference on December 23. If Defendants now want to deviate from what you suggested at the 26(f) conference, please propose it and Plaintiffs will consider it. But we need a fulsome response to the draft protective order we sent you ten days ago (including source code provisions) this week so that the parties can be in a position to exchange source code by no later than next week. The timing is particularly important given that one of Defendants' purported justifications for not being able to answer discovery is the alleged lack of access to source code and the absence of a protective order. While we don't agree with those purported justifications, we don't want them to continue to hold up substantive discovery responses from Defendants.

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From: Alison Plessman <aplessman@hueston.com>
Sent: Tuesday, January 26, 2021 7:12 PM
To: John L. Wood <JWood@emlaw.com>; jordan.feirman@skadden.com; john.neukom@skadden.com
Cc: Cheryl G. Rice <CRice@emlaw.com>; twerner@irell.com; mashley@irell.com; oweber@irell.com
Subject: RE: Source Code [IWOV-ACTIVE.FID215893]

Thanks. We are working on some proposed line edits, but more globally, I think it may make sense to remove the "Production of Source Code" section entirely and negotiate that separately once the parties have reached agreement regarding what source code (if any) needs to be reviewed, where, and when. The exact mode of production and review

is also something we would want our experts to weigh in on. Let me know if you have any concerns with dealing with that section separately.

Also, where the proposed order indicates that a Party Representative (or two) would be allowed to see the Highly Confidential documents and/or Source Code, can you please let us know if you are contemplating that Jeff Case will be the Party Representative on your side?

Alison Plessman

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[Biography](#)

From: John L. Wood <jwood@emlaw.com>

Sent: Tuesday, January 26, 2021 7:33 AM

To: Alison Plessman <aplessman@hueston.com>; jordan.feirman@skadden.com; john.neukom@skadden.com

Cc: crice@emlaw.com; twerner@irell.com; mashley@irell.com; oweber@irell.com

Subject: RE: Source Code [IWOV-ACTIVE.FID215893]

Alison,

Plaintiffs will not argue that negotiating, agreeing to, and/or entering a Protective Order is a waiver of any defense.

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From: Alison Plessman <aplessman@hueston.com>

Sent: Tuesday, January 26, 2021 5:20 AM

To: John L. Wood <JWood@emlaw.com>; jordan.feirman@skadden.com; john.neukom@skadden.com

Cc: Cheryl G. Rice <CRice@emlaw.com>; twerner@irell.com; mashley@irell.com; oweber@irell.com

Subject: RE: Source Code [IWOV-ACTIVE.FID215893]

Hi John,

Thank you for reaching out. One problem is that you have indicated that Plaintiffs will or may argue that Defendants' participation in such discovery-related activities constitutes a waiver of their defenses, unless they are simply responding to discovery already propounded by Plaintiffs. Presumably that position would apply to the source code review you are proposing. We don't understand why you have taken that position, but it puts us in a difficult position. There are several threshold issues that need to be addressed before any source code review can take place. But, as an initial matter, can you confirm that Plaintiffs will not take the position that negotiating, agreeing to, and/or entering a Protective Order constitutes a waiver of any defenses?

Thanks,
Alison

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[Biography](#)

From: John L. Wood <jwood@emlaw.com>

Sent: Sunday, January 24, 2021 8:55 AM

To: Alison Plessman <aplessman@hueston.com>; jordan.feirman@skadden.com; john.neukom@skadden.com

Cc: crice@emlaw.com; twermer@irell.com; mashley@irell.com; oweber@irell.com

Subject: Source Code [IWOV-ACTIVE.FID215893]

Counsel,

In your Motion to Stay we noticed that you claim you are hindered from responding to some of Plaintiff's discovery because "Defendants have had no opportunity to inspect any version of Plaintiff's software ..." Each of your clients is in possession of Plaintiffs' software and is actively distributing that software. To the extent you claim to need other versions of Plaintiffs' software, please immediately identify the versions you claim to need and why. If your requests are reasonable and appropriate, Plaintiffs are willing to agree to an expedited mutual exchange of software. My client is not in possession of any version of Defendants' software and would like to start the source code review as soon as possible. We proposed a protective order over a week ago that contains source code provisions in line with Allison's suggestion at the 26(f) conference on December 23rd. We propose that we agree to the protective order this week and exchange source code by January 29th. We are happy to get on a call to discuss any of the details.

John L. Wood

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